



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 8, 1998

Ms. Roxann Pais
Assistant City Attorney
Criminal Law and Police Division
Office of the City Attorney
Municipal Building
Dallas, Texas 75201

OR98-1412

Dear Ms. Pais:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115670.

The Dallas Police Department (the "department") received a request for thirty-six offense reports involving the offenses of sexual assault, attempted sexual assault, robbery, and murder. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the representative sample of documents.¹

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

investigation that did not result in conviction or deferred adjudication. . . .

Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that some of the requested offense reports relate to active, criminal investigations. Based upon your representations that these investigations are still pending, we find that the release of these offense reports would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, the department may withhold these reports from disclosure under section 552.108(a)(1).

You also state that the remaining offense reports relate to closed cases. For these reports you seek to withhold all but four pieces of information: 1) the offense committed, 2) time of occurrence, 3) description of the weather, and 4) names of the investigating officers. We note that, regardless of the status of an investigation, the information normally found on the front page of an offense report is generally considered public.² *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Generally, the identity of the victim or complainant may not be withheld from public disclosure. However, information tending to identify victims of serious sexual offenses and detailed descriptions of these offenses must be withheld from public disclosure pursuant to section 552.101 because such information is protected by common-law privacy. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). After reviewing the submitted documents, we note that some of the complainants were not victims of sexual assault. The department may not withhold the identifying information of a complainant who was not sexually assaulted. In those instances where the complainant was a victim of sexual assault, the department must withhold the victim's identifying information from public disclosure.

We also note that one of the submitted reports concerns the sexual assault of a child. Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed

²The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

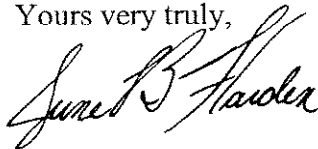
(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

We are not aware of any rules promulgated by the department which permit the dissemination of this type of information. Accordingly, the offense report for case number 0882411D is made confidential by section 261.201 of the Family Code and must be withheld from disclosure in its entirety under section 552.101 of the Government Code. *See* Open Records Decision No. 440 (1986) (applying former Family Code section 34.08).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 115670

Enclosures: Submitted documents

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